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| Notice of Allowability | Application No. | Applicant(s) | |
| | 09/973,089 | CONNETT-PORCEDDU ET AL | |
| | Examiner | Art Unit | |
| | Stuart F. Baum | 1638 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to papers filed 4/1/2005.
2. ☒ The allowed claim(s) is/are 1-2, 23-27, 32-36, 40-42, 55-58 (renumbered 1-2, 6-17, 19, 3-4, 18, 5).
3. ☐ The drawings filed on _____ are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).**
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|---|--|
| <ol style="list-style-type: none"> 1. <input type="checkbox"/> Notice of References Cited (PTO-892) 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date _____ 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit of Biological Material | <ol style="list-style-type: none"> 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) 6. <input checked="" type="checkbox"/> Interview Summary (PTO-413), Paper No./Mail Date <u>0505</u>. 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment 8. <input type="checkbox"/> Examiner's Statement of Reasons for Allowance 9. <input type="checkbox"/> Other _____ |
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Stuart F. Baum

EXAMINER'S AMENDMENT

RCE Acknowledgment

1. The request filed on 4/1/2005 for a Request for Continued Examination (RCE) under 37 C.F.R. § 1.114, based on parent Application No. 09/973,089 is acceptable and a RCE has been established. An action on the RCE follows.
2. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.
3. Authorization for this examiner's amendment was given in a telephone interview with Jeffrey L. Ihnen on 5/5/2005.
4. IN THE CLAIMS:

Claims 3, 22, 28, 30-31, 37 and 39 have been canceled.

--Claim 1 (currently amended): A method for regenerating genetically modified plants of pine of the genus *Pinus* subgenus *Pinus* selected from the group consisting of Southern yellow pines and hybrids [thereof] between Southern yellow pines, which comprises selecting transgenic embryogenic pine cells using a selection medium comprising a selection agent and an agent that regulates differentiation of embryos from embryogenic cells, said differentiation agent is abscisic acid (ABA), and regenerating genetically modified plants from said selected transgenic embryogenic pine cells.

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Claim 2 (currently amended): The method of claim 1, wherein said Southern yellow pines are selected from the group consisting of *Pinus taeda*, *Pinus elliotii*, and *Pinus caribaea* [and related pines].--

--Claim 23 (currently amended): The method of claim [22] 1, wherein said selection [agent] medium is [contained in] a gel medium.

Claim 24 (currently amended): The method of claim [22] 1, wherein said selection [agent] medium is [contained in] a layer and said cells are cultured on a support membrane placed over said layer which is placed on a gel medium.--

--Claim 32 (currently amended): The method of claim [31] 55, wherein said selection [agent] medium is [contained in] a gel medium.

Claim 33 (currently amended): The method of claim [31]55, wherein said selection [agent] medium is [contained in] a layer and said cells are cultured on a support membrane placed over said layer which is placed on a gel medium.--

--Claim 40 (currently amended): The method of claim [22]55, wherein said transformation is transformation by *Agrobacterium*.--

--Claim 42 (currently amended): The method of claim [31]55, wherein said transformation is transformation by [Agrobacterium] particle bombardment.--

--Claim 55 (new): The method of claim 1, wherein the transgenic embryogenic pine cells are prepared by transforming pine cells of said pine using a transformation medium comprising ABA.

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Claim 56 (new): The method of claim 55 which further comprises culturing the transgenic embryogenic pine cells using a recovery medium comprising ABA prior to selection.

Claim 57 (new): The method of claim 41, wherein the eradication is performed using on medium comprising ABA.

Claim 58 (new): The method of claim 55, wherein said Southern yellow pines are selected from the group consisting of *Pinus taeda*, *Pinus elliotii*, and *Pinus caribaea*.--

5. Support for claim 42, "particle bombardment" can be found on page 21, paragraph 62.

Support for new claim 55, "transformation medium comprising ABA" can be found on the sentence bridging pages 7-8.

Support for new claim 56, "recovery medium comprising ABA" can be found on the sentence bridging pages 7-8.

Support for new claim 57, "eradication is performed on medium comprising ABA" can be found on page 30, paragraph 90.

Support for new claim 58, can be found on the sentence bridging pages 7-8 and original claim 1 and 2.

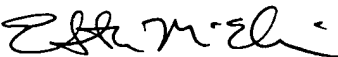
6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stuart F. Baum whose telephone number is 571-272-0792. The examiner can normally be reached on M-F 8:30-5:00.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Amy Nelson can be reached on 571-272-0804. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 571-272-1600.

Stuart F. Baum Ph.D.
Patent Examiner
Art Unit 1638
May 5, 2005


ELIZABETH MCELMAN
PRIMARY EXAMINER